

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

-and-

THE VULCAN SOCIETY, INC., for itself and
on behalf of its members; MARCUS
HAYWOOD, CANDIDO NUÑEZ,
ROGER GREGG, individually and on
behalf of a class of all others similarly situated,

Plaintiffs-Intervenors,

-against-

THE CITY OF NEW YORK,

Defendant.

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NICHOLAS G. GARAUFIS, United States District Judge.

Defendant City of New York moves to strike the testimony of Dr. Joel P. Weisen, an expert consultant retained by Plaintiffs-Intervenors, from being considered at the hearing concerning the validity of Exam 6019. (See Docket Entry ## 462-63, 466.) Having reviewed the parties' submissions, Dr. Weisen's Declaration (Docket Entry # 460, Att. 1), and the Special Master's Report on Discovery Issues Underlying Defendant's Motion to Exclude Expert Testimony (Docket Entry # 470), the court GRANTS the City's letter-motion. Dr. Weisen will not testify at the Exam 6019 hearing, and the court will not consider his Declaration when determining the validity of Exam 6019. The court takes no position on whether Dr. Weisen's testimony is relevant to the construction of a new selection procedure.

The parties have filed a joint letter informing the court of various agreements they have reached concerning the scheduling and format of the Exam 6019 hearing. (Docket Entry # 464.)

The court approves each of these agreements. The hearing will take place on July 20, 2010 at 10:00 a.m. in courtroom 4D. If necessary, the hearing will continue on July 21, 2010 at 2:00 p.m. in courtroom 4D. Because the court excludes Dr. Weisen's testimony, there is no need to reconvene the hearing on July 23, 2010. The experts' reports shall serve as the experts' direct testimony, but the parties may present a short live direct examination of their experts prior to cross-examination. The schedule of witnesses listed on page two of the joint letter is acceptable.

SO ORDERED.

Dated: Brooklyn, New York
July 12, 2010

/s/ Nicholas G. Garaufis
NICHOLAS G. GARAUFIS
United States District Judge